

**MINUTES**  
**TENNESSEE BOARD OF MEDICAL EXAMINERS**  
**Development Committee**

**May 21, 2012**

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The meeting was called to order at 6:00 p.m. at the Health Related Boards' Iris Room, 227 French Landing, Ground Floor, Heritage Place Metro Center, Nashville, Tennessee 37243 by Michael Zanolli MD. Other members of the committee present were: Mitchell Mutter, MD, and Ms. Regine Webster.

Other Board Members Present: Michael Baron MD, Keith Lovelady MD, and Barrett Rosen MD.

Staff present included Rosemarie Otto, Executive Director, Larry Arnold, MD, Medical Director, and Andrea Huddleston, Deputy General Counsel and Advisory Attorney.

Others Present: David Reagan, MD, Chief Medical Office, Department of Health, John Smith, Chief Counsel, Department of Health and Denise Moran, JD, Director, Office of Investigations, Department of Health.

**Minutes**

The Committee ratified the Minutes from the November 4, 2011 and March 26, 2011 meetings of the Development Committee.

**Discussion**

The Committee received a copy of the April 3, 2012 letter to David Reagan MD., Chief Medical Office for the state of Tennessee from Michael Zanolli MD. The letter emphasized the need for the Board and the Department to work together to effectively enforce the provisions of Tenn. Code Ann. Sect. 63-1-300, et seq regarding registration of pain clinics.

The Committee discussed several ways the BME can assist the efforts to reverse the state's position at or near the top in the prescribing of prescription analgesics. Use of "fact finders" to visit pain clinics, employment of an epidemiologist to review data from the controlled substance monitoring database, identifying and hiring an additional physician to assist Dr. Arnold and the hiring of additional, experience litigators to prosecute the offenders.

Ms. Moran addressed the Committee and outlined the proposed "inspection report" which was developed in her office closely following the statute and rules relative to pain clinic registration. Ms. Moran's survey will be utilized to work with both registered pain clinics and those who should be registered but have failed to do so. Ms. Moran identified certain mechanisms that are currently in place to investigate clinics (whether registered or not) which include complaints and the judicious use of the controlled substance database. If a healthcare provider is discovered to be working in an unregistered pain clinic, complaints will be opened and investigated, and, when appropriated, referred for prosecution to the Office of General Counsel. All actions against healthcare providers must be taken by their respective licensing board.

There was a brief discussion about drug diversion in the emergency room of the state's hospitals. Consideration will be given to using the office of the Commissioner and the Assistant Commissioner to reach out to hospitals in an effort to seek ways to combat the problem.

Dr. Zanolli suggested that it is not the intention of the Department or the Board to make physicians or patients overly fearful of the stepped up oversight. Good pain management must be encouraged. That led to the discussion about whether investigators from the Office of Investigations would be functioning as auditors, fact finders or investigators. The Committee emphasized that it wanted to keep good practitioners practicing because there are legitimate chronic pain patients being seen in legitimate pain clinics.

The Committee discussed the proposed "survey" form with Ms. Moran and several suggestions for revisions were made such as to ask on page 1 of the "survey" if the owner owns more than one clinic and if the medical director directs more than one clinic. Also, use the "survey" to gather data on the mixture of personnel in the clinic.

It was agreed to have Dr. Baron and Ms. Eller review the form after it is revised and return the form to the Committee at its meeting in July 2012.

Dr. Mutter opined that it is crucial that this initiative been done well if the Department and the Board are going to successfully address other matters currently taking place in the office setting.

Dr. Mutter discussed the need to establish a "score card" to set benchmarks for performance.

The Committee asked that the following matters be placed on the agenda for the July meeting:

1. Revised Fact Finder/Audit/Survey Form from Ms. Moran.
2. Score card.
3. Rule amendments which Ms. Huddleston will have prepared to address the repeal of the one point rule and international medical school graduates who graduate from a school that does not meeting the LCME standards, but who become board certified and passed all three steps of the USMLE in the first attempt.
4. Final report on the Administrative Law Judge Pilot Project.

With no further business the Committee adjourned at 7:10 p.m.